

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.24490 of 2006

Date: 17th September, 2007

Between :-

Mattipati Narasimham
Petitioner

..

And

The Commissioner of Civil Supplies,
Government of Andhra Pradesh,
Civil Supplies Bhavan, Hyderabad
And 2 others
Respondents

..

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.24490 of 2006

ORDER:-

This Court issued *rule nisi* on 24-11-2006.

2. The Writ Petition is filed for a Writ of Mandamus declaring the INACTION OF respondent-authorities in converting the retail kerosene outlet of the petitioner as Fair Price Shop as arbitrary, illegal, unreasonable and unconstitutional and violative of and contrary to Circular No.PDSII(3)/2847/2005, dated 19-3-2005 issued by the 1st respondent and further direct the 3rd respondent to convert the retail kerosene outlet of the petitioner as Fair Price Shop Dealer in accordance with PDS 11(3)/2847/05, dt.19-3-2005 and to pass such other suitable orders.

It is stated that the petitioner is a Kerosene Hawker with License bearing No.81 and attached to Fair Price Shop No.187, Moghul Rajapuram under the jurisdiction of Assistant Supply Officer, Circle-II, Vijayawada. It is also stated that the petitioner had been

dealing in Kerosene as Hawker for more than two decades without any remark whatsoever from any corner. It is also stated that as the number of Ration Cards were reduced considerably, the petitioner's retail kerosene outlet has become financially non-viable and it has become very difficult for him to maintain family with the meager income that the petitioner had been getting by way of commission on kerosene selling. It is also further stated that with a view to make the Hawkers economically viable and make all the essential commodities available under the same roof, the Government has taken a policy decision to eradicate Hawker system in Kerosene by converting all the existing Kerosene Hawkers as Fair Price Shop Dealers in a phased manner and to that effect a Circular dt.19-3-2005 got issued by the 1st respondent. It is also stated that having come to about the policy of the Government and in a view of his pathetic condition, the petitioner made an application for conversion as Fair Price Shop Dealer in terms of the said circular dt.19-3-2005 and

the respondents have simply given a go bye to his application and the policy decision of the Government and are known to be taking steps for notifying the existing vacancies of Fair Price Shop Dealers and hence the petitioner compelled to approach this Court. It is also stated that the respondent-authorities are legally bound to implement the policy of the State in letter and spirit by converting the retail kerosene outlet as Fair Price Shop but are inadvertent, lethargic. It is further stated that if the respondent-authorities are allowed in notifying the vacancies and select fresh candidates as Fair Price Shop Dealers will cause severe loss and damage. It is also further stated that the petitioner approached the 3rd respondent –R.D.O. and made a request for conversion as Fair Price Shop Dealer in terms of the circular dt.19-3-2005 but the 3rd respondent has stated very categorically that his IX Class pass is not sufficient and that he did not have the qualification, but did not give a written order to that effect. It is also stated by the petitioner that non-conversion of his retail kerosene outlet

as Fair Price Shop is contrary to the policy decision of the Government. It is also further stated by the petitioner that the minimum requirements for the selection of Fair Price Shop Dealers as stated in G.O.Ms.No.53, dt.6-10-2003 is not applicable to his case for conversion as Fair Price Shop is arbitrary and contrary to the State policy and that he is entitled for conversion as Fair Price Shop Dealer in terms of the said circular. It is also further stated that the said G.O.Ms.No.53, dt.6-10-2003 and the said eligibilities for selection of Fair Price Shop Dealers stated therein are only applicable to the fresh candidates seeking for selection of Fair Price Shop Dealers and applying the same to the already existing Hawkers is unreasonable and violative of the State policy and the policy of the Government to replace the kerosene hawkers by converting them to be Fair Price Shop Dealers will never be achieved. It is also further stated that there are vacancies of Fair Price Shop Dealers is utterly false as the respondents are going to fill-up by notifying the vacancies and the approach and attitude of the 3rd respondent in

rejecting the case of the petitioner for conversion as Fair Price Shop Dealer is arbitrary, illegal and not in tune with the policy decision envisaged and the underlying principle in converting hawkers as Fair Price Shop Dealers. It is also further stated that the petitioner belongs to the backward community and fully eligible for conversion as Fair Price Shop Dealer in accordance with the circular dt.19-3-2005.

4. The learned Government Pleader for Civil Supplies had placed before this Court G.O.Ms.No.53 Consumer Affairs, Food and Civil Supplies (C.S.I.) Department, dt.6-10-2003.

5. In the light of the facts and circumstances, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner as and when vacancies arise in accordance with the guidelines specified in G.O.Ms.No.53, dt.6-10-2003, specified supra. The Writ Petition is disposed of accordingly. No order as to costs.

Justice P.S.Narayana

17th September, 2007

smr